

109TH CONGRESS  
1ST SESSION

# H. R. 3041

To amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2005

Mr. THOMPSON of Mississippi (for himself, Ms. ZOE LOFGREN of California, Mr. MEEK of Florida, Ms. NORTON, Mr. MARKEY, Mr. LANGEVIN, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Privacy Officer With  
5       Enhanced Rights Act of 2005” or the “POWER Act”.

1 **SEC. 2. AUTHORITIES OF THE PRIVACY OFFICER OF THE**  
2 **DEPARTMENT OF HOMELAND SECURITY.**

3 Section 222 of the Homeland Security Act of 2002  
4 (6 U.S.C. 142) is amended—

5 (1) by inserting before the first sentence the  
6 following: “(a) APPOINTMENT AND RESPONSIBIL-  
7 ITIES.—”; and

8 (2) by adding at the end the following:

9 “(b) AUTHORITY TO INVESTIGATE.—

10 “(1) IN GENERAL.—The senior official ap-  
11 pointed under this section is specifically author-  
12 ized—

13 “(A) to have access to all records, reports,  
14 audits, reviews, documents, papers, rec-  
15 ommendations, and other materials available to  
16 the Department that relate to programs and op-  
17 erations with respect to which the senior official  
18 has responsibilities under this section;

19 “(B) to make such investigations and re-  
20 ports relating to the administration of the pro-  
21 grams and operations of the Department as  
22 are, in the senior official’s judgment, necessary  
23 or desirable;

24 “(C) to require by subpoena the produc-  
25 tion, by persons other than Federal agencies, of  
26 all information, documents, reports, answers,

1 records, accounts, papers, and other data and  
2 documentary evidence necessary to performance  
3 of the functions of the senior official under this  
4 section;

5 “(D) to administer to or take from any  
6 person an oath, affirmation, or affidavit, when-  
7 ever necessary to performance of the functions  
8 of the senior official under this section; and

9 “(E) to take any other action that may be  
10 taken by the Inspector General of the Depart-  
11 ment, as necessary to require employees of the  
12 Department to produce documents and answer  
13 questions relevant to performance of the func-  
14 tions of the senior official under this section.

15 “(2) ENFORCEMENT OF SUBPOENAS.— Any  
16 subpoena issued under paragraph (1)(C) shall, in  
17 the case of contumacy or refusal to obey, be enforce-  
18 able by order of any appropriate United States dis-  
19 trict court.

20 “(3) EFFECT OF OATHS, ETC.—Any oath, affir-  
21 mation, or affidavit administered or taken under  
22 paragraph (1)(D) by or before an employee of the  
23 Privacy Office designated for that purpose by the  
24 senior official appointed under subsection (a) shall

1        have the same force and effect as if administered or  
2        taken by or before an officer having a seal of office.

3        “(c) TERM OF OFFICE.—The term of appointment of  
4        a senior official under subsection (a) shall be 5 years.

5        “(d) REPORTS TO CONGRESS.—The senior official  
6        appointed under subsection (a) shall submit reports di-  
7        rectly to the Congress regarding performance of the re-  
8        sponsibilities of the senior official under this section, with-  
9        out any prior comment or amendment by the Secretary,  
10       Deputy Secretary, or any other officer or employee of the  
11       Department or the Office of Management and Budget.”.

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